

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)
) CASE NO. MJ21-594 SKV
Plaintiff,)
)
v.)
) ORDER DENYING MOTION TO
LISA RENEE LITTLE,) REOPEN DETENTION ORDER
)
Defendant.)
_____)

This matter comes before the Court on Defendant's motion to reopen her detention hearing and issue an order releasing her on pre-trial supervision. Dkt. 10 at 1. Defendant seeks to reopen the detention order, asking the Court to consider corroboration regarding Defendant's testimony as a victim at trial, and alleged new facts relating to the circumstances of the issuance of the Notice to Appear. *Id.* The government opposes the motion. Dkt. 11.

The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby DENIES the motion for the reasons stated herein.

01 **PROCEDURAL AND FACTUAL BACKGROUND**

02 On July 20, 2020, Defendant attempted to reenter the United States from Mexico at
03 the Calexico, California, port of entry. Dkt. 13 at 3. Defendant drove a car through the port
04 of entry and was its sole occupant. The customs officer directed Defendant to secondary
05 inspection where investigators searched the vehicle and discovered a concealed compartment
06 containing approximately 21 kg of methamphetamine and 2.8 kg of fentanyl. Defendant was
07 *Mirandized* and stated this was the second time she had crossed the border in order to
08 transport contraband in return for payment, and she knew she was carrying either guns or
09 drugs in the vehicle. *Id.* During the interview with agents, Defendant was given a “**Notice**
10 **to Appear**”, giving the date and time of the appearance as November 6, 2020, at 8:00 a.m. in
11 Federal Court in El Centro, California, and providing a warning that failing to appear could
12 result in a warrant being issued. Dkt. 10, Ex. 4. The notice included that the Court would
13 appoint counsel and advised Defendant of the phone number of the Federal Defenders of San
14 Diego if she had questions regarding representation. *Id.* The notice also instructed
15 Defendant to contact the U.S. Pretrial Service office within 24 hours. *Id.* Defendant signed
16 and dated the document. Defendant did not call the U.S. Pretrial Services Office and failed
17 to appear at the hearing on November 6, 2020. Dkt. 11. The Court’s minute entry indicated
18 that Ms. Little “failed to appear,” and the Court found that “defendant signed an NTA.”
19 *United States v. Little*, 3:20-cr-02547-GPC-1, Dkt. 1 (S.D. Cal. July 23, 2020). The court
20 issued a warrant. *Id.* A second hearing was held on December 17, 2020. *Id.*, Dkt. 12.
21 Defendant again failed to appear. *Id.*

01 On November 3, 2021, Defendant was arrested at SeaTac airport during a layover
02 upon her return from testifying at trial at a trial in San Bernardino County, California.
03 Defendant had her initial appearance and detention hearing on November 4, 2021. After
04 hearing argument from the parties, the Court detained defendant pending transfer to the
05 Southern District of California, finding, in part:

06 Defendant poses a risk of nonappearance based on the fact that the Southern
07 District of California issued a warrant for failure to appear, and also based
08 upon the fact that she has allegedly traveled internationally in the course of
the criminal conduct charged in the Southern District of California.

09 Dkt. 6

10 DISCUSSION

11 The Court may reopen a detention hearing “if the judicial officer finds that
12 information exists that was not known to the movant at the time of the hearing and that has a
13 material bearing on the issue whether there are conditions of release that will reasonably
14 assure the appearance of such person as required and the safety of any other person and the
15 community.” 18 U.S.C. § 3142(f)(2). The statute therefore requires that the movant show
16 two things: (1) that she has new information, previously not known to her, and (2) that the
17 new information is material to the detention issue. Courts interpret the reopening provision
18 “strictly”. *United States v. Ward*, 63 F. Supp. 2d 1203, 1206 (C.D. Cal 1999). “New and
19 materials information [under 3142(f)] consists of something other than a defendant’s own
20 evaluation of his character or the strength of the case against him: truly changed
21 circumstances, something unexpected, or a significant event.” *United States v. Macpherson*,
22 CR19-5213 BHS, 2020 WL 18122239 at *2 (W.D. Wash. Apr. 9, 2020).

01 Defendant's motion cites as the basis for reopening detention information that appears
02 to go to the credibility of Defendant's statements at the time of the original detention hearing.
03 Dkt. 10 at 1-3. First, at the detention hearing, Defendant asserted that she had been in the
04 course of traveling from testifying as a victim at trial and returning to Walla Walla on the way
05 to reside with family in Oregon. Defendant now presents corroboration that she did testify as
06 a victim at trial. But the Court had no basis to doubt that assertion at the initial detention
07 hearing, and the purpose of her travel was not a factor in the Court's consideration of
08 detention or release. Thus, the corroboration of the purpose and circumstances of her travel
09 at the time of her arrest in November 2021 is neither new information nor material to the
10 detention decision.

11 Second, the Defendant points to the fact that the Notice of Appearance was provided
12 to Defendant by agents in July at the time of her arrest and attaches that notice and an image
13 from a video showing Defendant in an office with agents with a copy of the Notice visible on
14 the screen of a computer. Dkt. 10, Exhibits 4 and 5. But nothing at the original hearing,
15 neither the government's proffer nor the docket entry regarding the November 6, 2020,
16 hearing, led the Court to believe that the Notice to Appear had been provided to Defendant
17 with counsel present or that Defendant had signed it in November 2020 rather than July 2020,
18 or that there had been an initial appearance in court in July. Dkt. 14 at 1-2. None of the
19 information presented by Defendant presents new information; rather the exhibits confirm that
20 Defendant signed a notice to appear that instructed her regarding the date and time of
21 appearance, warning her that failure to appear could result in her arrest, notifying her that she
22


01 was required to contact pre-trial services, and providing her with the phone numbers for the
02 Federal Defenders Office. These facts contrast with Defendant's assertion that she was not
03 aware of the requirement that she appear in court. Defense counsel appears to assert that the
04 government hid the ball with respect to the circumstances of the signing of the Notice to
05 Appear, but that information was fully known to the Defendant, and, again, nothing led the
06 Court to believe that the circumstances were anything other than those now confirmed.

07 Because Defendant has failed to present information that was not known to the
08 movant at the time of the hearing or that has a material bearing on the issue of detention or
09 release, the motion to reopen detention pursuant to 18 U.S.C. § 3142(f) is DENIED.

10 Defendant also moves for temporary release pursuant to 18 U.S.C. § 3142(i). But
11 such a request ignores the reality that the Court ordered detention in order to assure
12 Defendant's appearance in the court of original jurisdiction, the Southern District of
13 California. A temporary order of release would defeat the entire purpose of the Order.

14 The Motion to Re-open the Order for Detention or in the alternative for Temporary
15 Release is DENIED.

16 DATED this 23rd day of November, 2021.

17 
18 S. KATE VAUGHAN
19 United States Magistrate Judge
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